

REMARKS

This Amendment is in response to the Office Action of March 19, 2008, in which the Examiner rejected claims 1, 2 and 6-13 as allegedly anticipated by Day. Claims 3-5 are rejected over Day in view of Helger and Stanchfield.

Applicants have amended the claims to recite a combination of a tube and multi-well plate for receiving the tube in a particular manner. It is believed that while the tube itself is patentable, and can be claimed alone, in order to move prosecution forward, the combination of the tube and multi-well plate in a cooperative relationship, clearly recites a patentable invention.

With respect to the claim rejections, applicants reiterate the argument that the Day does not teach a tube with a formation that snap fits with the bottom surface of a multi-well plate. Indeed, Day teaches a tube with a cap that fits on to the bottom to capture an identification label. Thus, Day teaches a tube alone. The tube in Day does not extend through the plate to engage the lower or bottom surface of the plate.

The indent noted by the examiner is for engaging the cap. Once secured to the end of the tube by ultrasonic welding, the cap and tube are integral. Therefore the completed tube does not have a formation which can snap fit through the bottom opening of the plate. In addition, even if the cap were not employed, the protrusion on the bottom of the tube could not snap fit into the plate, because the formation at the end of the tube is larger than the opening in the bottom surface of the plate.

The Examiner has equated an incomplete feature of the art with a feature of the invention. The cap in Day fits over the end of the tube and the tube may be inserted in a plate in a conventional manner. Even if the cap in Day were not installed, there is no plate which would function in the manner claimed. Also, the formation at the lower end of the tube in the invention can be integral or it can be added as a separate component. However, a comparison of the tube in Day and the tube of the invention shows one significant difference, namely that the tube in Day has one part that snap fits into a cap that is smaller than the hole and cannot therefore function as claimed and the amended claims. The tube of the invention has two parts, one is similar to Day in that it fits on the end of the tube, but importantly, the part that fits on to the end of the tube is itself adapted to snap fit into the tray. Nothing of the sort is shown or suggested by Day.

The Examiner states in the second response to applicants' argument that the cap may be fused to the tube and thus the tube may engage the bottom surface of the plate. This is partly true. The cap may be integrally fused to the end of the tube, but the end of the tube does not thereby have a formation that engages the bottom surface of the tube. If the tube of Day were to be used with the multi-well plate of the invention, it might pass through the bore and extend beyond the bottom surface of the plate, but it would not engage the bottom surface of the multi-well plate in a snap fit relationship. This is because 1) the cap would have already been applied and fused to the tube; 2) the tube including the cap would not have a formation for engaging the bottom surface of the plate; and 3) the formation would not be sized for snap fit engagement with the bottom surface of the plate.

Regarding the Examiner's comment that the claim sets forth intended use, it is believed that the combination claimed does not suffer from such objection.

As to the relative size of the parts, applicants have recited that the tube and the plate have cooperating parts which are sized to parts which are sized to snap fit together. This is not a claim to an intended use, but recites the actual cooperative relationship of elements.

Applicants believe that the language presented more clearly differentiates the invention from the cited art. In particular the applicants assert that the difference between the invention and the cited art is that the connector portion at the bottom of the tube is sized for snap fit into engagement with the bottom surface of the multi-well plate which cooperates with and is engaged by the formation as it passes through the bore and engages the lower surface of the plate. The claimed structure is not a cap covering the small end of the tube., but is a formation which engages the plate.

In view of the foregoing, it is respectfully requested that the Examiner reconsider his rejection of the claims, the allowance of which is earnestly solicited.

If additional fees are required, the Director is authorized to charge Deposit Account 504147 or credit any overpayment thereto.

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